

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
)	
Rules and Regulations Implementing)	CG Docket No. 02-278
the Telephone Consumer Protection Act of 1991)	
)	CG Docket No. 05-338
Comments by The American Hotel &)	
Lodging Association)	
)	

TO: The Federal Communications Commission

**FROM: The American Hotel & Lodging Association
 1201 New York Ave., NW
 Washington, DC 20005**

The American Hotel & Lodging Association (AH&LA) respectfully submits these comments on behalf of the lodging industry of the United States.

AH&LA is a 96-year-old association of lodging properties and companies throughout the United States. Members are represented by AH&LA at the national level as well as by our partner state associations, which provide many additional cost-saving benefits. With some 10,000 members in the United States and internationally, AH&LA represents more than 1.3 million guest rooms. As the voice of the industry ensuring a positive business climate for hoteliers, AH&LA provides advocacy on Capitol Hill, education, marketing, information, and bottom-line benefits.

The lodging industry is one of small businesses. Of the approximately 47,000 lodging properties in the United States, more than one-half of all lodging properties (more than 27,000) have fewer than 75 rooms and nearly 42,000 have fewer than 150 rooms. In addition, approximately 24,000 properties charge less than \$45.00 a night while approximately 38,000 properties charge less than \$85.00 a night. Clearly the backbone of the lodging industry is one of small businesses.

It is important to note that the typical lodging property is one that caters to a customer base that is decidedly not local. A typical customer is one that might be from out of town attending a convention or making a sales call; traveling with their family across the country; returning for a college reunion; or just on vacation to get away from it all. Given that the lodging property caters to customers across the country, it is of particular concern that a patchwork of state laws would make communicating with these customers extremely difficult.

AH&LA believes that the FCC needs to affirm its exclusive authority to regulate interstate commercial facsimile messages and find that State laws the purport to regulate interstate facsimile communications are in fact preempted by the Federal Telephone Consumer Protection Act. Allowing efforts by States to limit commercial facsimile communications would prove

to be prohibitively costly and confusing for small businesses while rendering Federal law ineffectual.

A lodging operation relies heavily on facsimile communication. Typical usage of facsimile include: announcements of pricing, special offers, menu and other service options, credit application and inquiries, supplying information and details of the property, copies of contracts and invoices, and announcements of upcoming meetings/conferences/conventions at a property. Reliance on facsimile communication is a necessary daily part of doing business.

AH&LA presents these comments addressing specific questions raised by the FCC in its December 19, 2005 Proposed Rule.

The FCC asks if it should establish parameters the definition of the established business relationship. AH&LA believes that the Junk Fax Prevention Act of 2005 in fact provides strong parameters by allowing the use of a fax number that is obtained through voluntary communication or where the recipient voluntarily agreed to make available its facsimile number for public distribution. In fact, when a business discloses its facsimile number, they are doing so willingly. Recipients are protected by their free choice of not disclosing this number and are protected by the opt-out portions of the regulations.

The FCC asks if it should consider limiting the duration of an established business relationship and further, suggests that an 18 month limitation might be an appropriate balance. While AH&LA appreciates that an established business relationship should not be granted in perpetuity, the lodging industry has a unique view on this limitation. A typical organization sponsoring an annual meeting or conference will choose a lodging property in a particular destination for its meeting then select another city the following year. It is common that the organization will return to the same city after a few years, thus creating another opportunity for the lodging operation to solicit this returning business. With this in mind, AH&LA urges the FCC to establish a lengthy limitation on the duration of an established business relationship for as long as five years.

The FCC asks if the costs to small businesses would be burdensome for compliance to limitations on established business relationship and opt out provisions of these regulations. AH&LA believes that in fact the compliance costs for small businesses would indeed fall disproportionately on small businesses. A typical small lodging operation will have a limited staff of full and part-time employees and would need to contract out IT services on a part-time or consultant basis. These employees would typically not work at the property and certainly not work full time for the lodging operation. As a

result, contracting for additional work from outside contractors to comply with these regulations would fall disproportionately upon small businesses.

Along the same lines, the FCC asks for the shortest reasonable time within which a sender of unsolicited facsimile advertisements must comply with a request not to receive future facsimile advertisements from the sender.

Again, AH&LA appreciated that the recipient should expect a do-not-fax request to be granted within a reasonable time, compliance for the lodging industry would be difficult with anything less than 30 days and AH&LA would endorse a 45 or 60 day time limit. A longer time limit would allow small businesses contracting out IT services to meet a do-not-fax request.

The FCC asks how do-not-fax requests should be handled by businesses. The FCC considers three methods for requests: toll-free telephone number, website, or e-mail address. While most lodging operations would be able to comply with a 24-hour toll-free telephone option, many smaller lodging operations are not able to afford this luxury and would benefit from the FCC allowing all three options to be acceptable means of accepting requests.

AH&LA appreciated the opportunity to submit these comments and stands ready to work with the FCC during the development of common sense implementation of the Junk Fax Prevention Act of 2005.

Sincerely,

A handwritten signature in black ink, reading "Marlene M. Colucci". The signature is written in a cursive, flowing style with a large initial 'M'.

Marlene Colucci
Executive Vice President of Public Policy